

REMARKS

The applicants have studied the Office Action dated July 12, 2007, and have made amendments to the application. It is submitted that the application, as amended, is in condition for allowance. By virtue of this amendment, claims 1, 3-16, and 18-30 are pending and claims 1, 3, 4, 9, 12, 13, 16, 18, 19, 24, 27 have been amended. Reconsideration and allowance of all of the claims in view of the above amendments and the following remarks are respectfully requested.

The applicants wish to thank the Examiner for his time in the October 12, 2007 telephone call with applicants' representative. The Examiner and applicants' representative discussed the rejections and prior art references cited in the Office Action in relation to the present case.

In the Office Action, the Examiner objected to the specification and claims 16-30 for invoking sixth paragraph, means-plus-function language. However, during the telephone call with applicants' representative, the Examiner agreed that this objection was inappropriate. Accordingly, applicants' respectfully request that the objection to the specification and claims 16-30 be withdrawn.

Claims 1-2, 9-17, and 24-30 were rejected under 35 U.S.C. § 102(b) as being anticipated by: (1) U.S. Patent No. 4,435,173 to Siposs et al; (2) U.S. Patent No. 5,709,654 to Klatz et al; and (3) U.S. Patent No. 5,151,093 to Theeuwes et al. These rejections are respectfully traversed.

In the Office Action, the Examiner argues that the cited 102(b) references disclose each and every element of the claimed subject matter. However, the Examiner has not shown where each reference discloses, teaches or suggests the use of a hydrophobic material, as recited in the amended claims. Specifically, independent claims 1 and 16 now include the limitations of cancelled claims 2 and 17—“[a]n external infusion device for infusion of a fluid into a body from a reservoir, the external infusion device comprising: a drive system . . . ; a housing . . . ; electronic control circuitry . . . ; wherein the housing has at least one vent port . . . ; and wherein the at least one vent port further includes a hydrophobic material” (emphasis added).

The present application's disclosure explains, in detail, the advantages of including a vent port and a hydrophobic material in an external infusion device (see, for example, paragraphs [0082]-[0087] and accompanying figures). However, the cited 102(b) references never disclose, teach or suggest the use of a hydrophobic material in any of the described embodiments. Although the Examiner contends that each reference discloses a vent port (elements 26, 27 of Siposs et al.; elements 68, 69 of Klatz et al.; and element 34 of Theeuwes et al.), the Examiner has not shown which element of each reference describes the hydrophobic material recited in the claims.

As noted in M.P.E.P. 2131, to anticipate a claim, a reference must teach every element of a claim. In particular, a claim is anticipated only if each and every element as set forth in the claim is described in a single art reference. Because the 102(b) references cited by the Examiner fail to teach or suggest an external infusion device having a vent port that further includes a hydrophobic material, these references cannot anticipate the claimed invention. For this reason, applicants respectfully request a withdrawal of the rejections under 35 U.S.C. §102(b).

Claims 3-8 and 18-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Siposs et al., Klatz et al., or Theeuwes et al. This rejection is respectfully traversed.

The dependent claims 3-8 and 18-23 depend from the independent claims which were patentably distinguished from the references as discussed above. Accordingly, claims 3-8 and 18-23 are also distinguished over the references.

For this reason, applicants respectfully request withdrawal of the rejections of claims 3-8 and 18-23 under 35 U.S.C. §103(a).

In view of the foregoing, it is respectfully submitted that the application and all of the claims are in condition for allowance. Examination and consideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is invited to call the undersigned attorney at (818) 576-5003 should the Examiner believe a telephone interview would advance the prosecution of the application.

Respectfully submitted,

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